

Article - Natural Resources

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§4–1008.

(a) (1) In this section the following words have the meanings indicated.

(2) “Introduction” means the intentional or accidental placement in State waters of a nonnative oyster for any purpose other than scientific research that is conducted in accordance with standards developed by the Chesapeake Bay Program under the U.S. Environmental Protection Agency.

(3) “Nonnative” means a species of oyster other than the *Crassostrea virginica*.

(b) Except for the Department, a person may not introduce a nonnative oyster into State waters unless the person has a permit issued by the Department.

(c) (1) The Department may not introduce a nonnative oyster into State waters or issue a permit to another person for an introduction unless:

(i) The recommendations set forth in the 2004 report, “Nonnative Oysters in the Chesapeake Bay”, produced by the Committee on Nonnative Oysters in the Chesapeake Bay, Ocean Studies Board, Division on Earth and Life Studies of the National Research Council, have been met to the extent feasible for the State of Maryland;

(ii) The specific research recommendations set forth in “Identifying and Prioritizing Research Required to Evaluate Ecological Risks and Benefits of Introducing Diploid *Crassostrea Ariakensis* to Restore Oysters to the Chesapeake Bay” (STAC Publication 04–002), have been fully met; and

(iii) A draft environmental impact statement conducted in accordance with the recommendations specified in items (i) and (ii) of this paragraph has been completed; and

(iv) An independent oyster advisory panel of scientific experts appointed by the Secretary has:

1. Reviewed and approved the sufficiency of the data and assessments used to identify the ecological and economic risks and benefits of introducing a nonnative oyster into State waters and the degree of risk associated with implementing each oyster restoration alternative identified in the draft

environmental impact statement prepared in accordance with item (iii) of this paragraph; and

2. Identified any additional research that the panel recommends to reduce the level of risk and uncertainty.

(2) Before the Department may introduce a nonnative oyster into State waters or issue a permit to another person for an introduction, the Department shall:

(i) Subject to § 2-1257 of the State Government Article, submit a report to the General Assembly demonstrating that the Department has met the requirements of paragraph (1) of this subsection;

(ii) Conduct public hearings regarding the Department's decision to introduce or to issue a permit to introduce a nonnative oyster into State waters;

(iii) For at least 30 days following the last public hearing conducted under item (ii) of this paragraph, receive written public comments on the Department's decision to introduce or to issue a permit to introduce; and

(iv) 1. Issue and publish a final decision, including a full scientific rationale for the final decision, a summary of oral and written comments received under items (ii) and (iii) of this paragraph, and the Department's response to these comments, in the Maryland Register; and

2. Publish the final decision, including all accompanying documentation under item 1 of this item, on the Department's website.

(3) Introduction of a nonnative oyster may not occur until at least 60 days after issuance of a final decision under paragraph (2)(iv) of this subsection.

(d) In addition to any other penalty provided under law, a person who violates subsection (b) of this section is:

(1) Guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$25,000 or both, with costs imposed in the discretion of the court; and

(2) Liable for the imposition of a civil penalty up to \$25,000 and, in the discretion of the court, the actual costs associated with remediation of the introduction.

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